

VIRGINIA BOARD OF BAR EXAMINERS
Rules Governing
Appeals from Recommendations of the Character and Fitness Committee

In cases where the Character and Fitness Committee (the Committee) has declined to recommend to the Board of Bar Examiners (the Board) the licensure of an applicant for admission to the Virginia bar, the applicant may appeal the Committee's decision to the Board. The following Rules shall apply to such appeals.

Standard of Review

In reviewing recommendations of the Committee, the Board accords the Committee's factual findings substantial weight and views those findings as *prima facie* correct. The Board is not bound by the Committee's recommendations, and the final decision remains the responsibility of the Board.

Notice of Appeal.

(a) **Timeliness.** No appeal shall be allowed unless, within 30 days after the date the Committee's decision is mailed to the applicant, the applicant or counsel for the applicant files with the Secretary of the Board (the Secretary) a Notice of Appeal and at the same time mails or delivers a copy of such notice to the Director of Character and Fitness.

(b) **Contents.** The Notice of Appeal shall state the date of mailing of the Committee's decision appealed from, shall be signed by the applicant or by applicant's counsel, if any, and shall contain the address and telephone number of the applicant and counsel, if any.

Record on Appeal; Contents.

The following constitute the record on appeal from the Committee:

(1) the applicant's Character and Fitness Questionnaire with all amendments thereto filed by the applicant prior to the hearing before the Committee, all reports of investigations and other inquiries related to the applicant's Character and Fitness Questionnaire, and the papers and exhibits submitted at the hearing before the Committee;

(2) the Notice of Hearing sent to the applicant by the Director of Character and Fitness;

(3) a transcript of all proceedings before the Committee, prepared at the applicant's sole cost, an original and 7 copies of which shall be filed by the applicant with the Secretary of the Board no later than the deadline for filing the applicant's Petition for Appeal;

(4) any opinion or decision rendered by the Committee;

(5) the Notice of Appeal.

Petition for Appeal; Filing Time; Copies; Contents

(1) **Filing time.** The applicant shall file his or her Petition for Appeal in the office of the Secretary within 30 days after the date of the filing of the Notice of Appeal in such office.

(2) **Copies.** Seven copies of the Petition for Appeal shall be filed and one copy shall be mailed or delivered to the Director of Character and Fitness on or before the date of filing.

(3) **Contents.** The Petition for Appeal shall contain:

(a) A subject index and table of citations with cases alphabetically arranged. Citations of Virginia cases shall be to the Virginia Reports and the Southeastern Reporter. Citations of all authorities shall include the year thereof.

(b) A statement of the issues presented in the appeal.

(c) A clear and concise statement of the facts that relate to the issues presented, with references to the pages of the transcript or other documents in the record, and all reasons why the decision of the Committee should not be affirmed. The Petition shall address the applicant's burden to prove by clear and convincing evidence that he or she is a person of honest demeanor and good moral character and possesses the requisite fitness to perform the obligations and responsibilities of a practicing attorney, and shall expressly reference each element of evidence on which the applicant relies to satisfy such burden of proof.

(d) The principles of law, the argument, and the authorities relating to each issue presented.

(e) A statement whether the applicant wishes to appear personally before the Board or wishes to waive the right to appear and submit the appeal on the written Petition and the record.

(f) The signature of the applicant and the applicant's counsel, if any, and the address and telephone number of each.

(g) A certificate stating that a copy of the Petition has been mailed or delivered to the Director of Character and Fitness.

(h) The Petition shall be typewritten, double-spaced, and in at least 12 point type. The Board encourages the applicant to limit the Petition to 10 pages.

Hearings before the Board

(a) **Notice.** In cases where the applicant has requested to appear personally before the Board, the Board will notify the applicant or applicant's counsel, if any, of the date, time, and place for the hearing.

(b) **Length.** Except as otherwise directed by the Board, hearings shall not exceed 30 minutes in length.

(c) **Matters considered.** The hearing will be limited to the matters contained in the record and addressed in the applicant's Petition. No additional evidence will be received, except that the Board may, in its sole discretion and upon prior written request from the applicant filed with Secretary at least 7 days prior to the hearing, receive evidence of matters that have arisen after the date of the hearing before the Committee or that otherwise could not have been presented at the hearing before the Committee. The Board may make such further inquiries as it deems appropriate, regardless of when the event may have occurred.

Filing times mandatory; procedure

(a) The times prescribed for filing the Notice of Appeal, the transcript, and the Petition for Appeal are mandatory. A single extension not to exceed thirty days may be granted if at least two members of the Board concur in a finding that an extension for papers to be filed is warranted by the intervention of some extraordinary occurrence or catastrophic circumstance which was unpredictable and unavoidable. Failure to file the Notice of Appeal, the transcript, or the Petition for Appeal within the time limits prescribed by these Rules shall be conclusively deemed a waiver of a hearing before the Board.

(b) Any document required to be filed with the Secretary of the Board, or filed in the office of the Secretary, shall be deemed to be timely filed if (i) it is transmitted expense prepaid to the Office of the Secretary of the Board by priority, express, registered, or certified mail via the United States Postal Service, or by a third party commercial carrier for next-day delivery, and (ii) the official receipt therefor issued by the United States Postal Service or by such third party commercial carrier, which shall be exhibited on demand of the Secretary, shows such transmission or mailing to the Secretary's office on or before the prescribed deadline.

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